



ENVIRONMENTAL PROTECTION AGENCY

[FRL-8948-03-OMS]

Privacy Act of 1974; System of Records

AGENCY: National Enforcement Investigations Center (NEIC), Office of Criminal Enforcement Forensics and Training (OCEFT), Office of Enforcement Compliance and Assurance (OECA), Environmental Protection Agency (EPA).

ACTION: Notice of a new system of records.

SUMMARY: The U.S. Environmental Protection Agency's (EPA), National Enforcement Investigations Center (NEIC) is giving notice that it proposes to create a new system of records pursuant to the provisions of the Privacy Act of 1974. The National Enforcement Investigations Center Master Tracking System (MTS) will contain information related to investigations of persons or organizations alleged to have violated any federal environmental statute or regulation or, pursuant to a cooperative agreement with a state, local, or tribal authority, an environmental statute or regulation of such authority. The U.S. Environmental Protection Agency will separately add exemptions for this system of records to the Agency's Privacy Act regulations at 40 CFR part 16.

DATES: Persons wishing to comment on this system of records notice must do so by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

Routine uses for this new system of records will be effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OECA-2021-0552, by one of the following methods:

Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the online instructions for submitting comments.

Email: docket_oms@epa.gov. Include the Docket ID number in the subject line of the message.

Fax: (202) 566-1752.

Mail: OMS Docket, Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Ave., NW, Washington, D.C. 20460.

Hand Delivery: OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave., NW, Washington, D.C. 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OECA-2021-0552. The EPA policy is that all comments received will be included in the public docket without change and may be made available online at <https://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Controlled Unclassified Information (CUI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CUI or otherwise protected through <https://www.regulations.gov>. The <https://www.regulations.gov> website is an "anonymous access" system for EPA, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. Each agency determines submission requirements within their own internal processes and standards. If you send an e-mail comment directly to the EPA without going through <https://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment. If the EPA cannot read your comment due to technical difficulties and cannot contact

you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA public docket, visit the EPA Docket Center homepage at <https://www.epa.gov/dockets>.

Docket: All documents in the docket are listed in the <https://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CUI or other information for which disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <https://www.regulations.gov> or in hard copy at the OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave., NW, Washington, D.C. 20460.

EPA Docket Center and Reading Room Temporary Hours During COVID-19

Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via <https://www.regulations.gov/> or email, as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OMS Docket is (202) 566-1752.

FOR FURTHER INFORMATION CONTACT: Michael Roach, EPA National Enforcement Investigations Center, Denver Federal Center, 6th and Kipling, Building 25, Denver CO 80225; email address: Roach.Michael@epa.gov; telephone: (303) 462-9080.

SUPPLEMENTARY INFORMATION: The EPA National Enforcement Investigations Center (NEIC), established in 1970, provides expertise in field investigations, technical and regulatory

analyses, forensic laboratory analysis, information management, and litigation support for civil and criminal environmental enforcement actions brought by federal, state, tribal, and local authorities. The NEIC Master Tracking System (MTS) consists of a central data directory linked with other computerized subsystems. EPA will use NEIC MTS to manage and track field, laboratory, and operational support activities.

SYSTEM NAME AND NUMBER: NEIC Master Tracking System (MTS), EPA-79

SECURITY CLASSIFICATION: Unclassified

SYSTEM LOCATION: National Enforcement Investigations Center, Office of Criminal Enforcement, Forensics & Training, Environmental Protection Agency, Denver Federal Center, 6th and Kipling, Building 25, Denver, Colorado 80225.

SYSTEM MANAGER(S): Michael Roach, EPA National Enforcement Investigations Center, Denver Federal Center, 6th and Kipling, Building 25, Denver CO 80225;

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AUTHORITY FOR MAINTENANCE OF THE SYSTEM: Powers of Environmental Protection Agency, 18 U.S.C. 3063; Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. 9603; Resource Conservation and Recovery Act, 42 U.S.C. 6928; Clean Water Act, 33 U.S.C. 1319, 1321; Toxic Substances Control Act, 15 U.S.C. 2614, 2615; Clean Air Act, 42 U.S.C. 7413; Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 136j, 136l; Safe Drinking Water Act, 42 U.S.C. 300h-2, 300i-1; Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. 11045; and the Marine Protection, Research, and Sanctuaries Act of 1972, 33 U.S.C. 1415.

PURPOSE OF THE SYSTEM: To support, further, and document criminal and civil investigations of persons or organizations alleged to have violated any federal environmental statute or regulation or, pursuant to a cooperative agreement with a state, local, or tribal authority, an environmental statute or regulation of such authority. NEIC MTS is used to maintain information related to such investigative efforts, including the nature of work,

investigation outcomes, required resources, and information about the supporting staff. NEIC MTS is used to record, monitor, and manage enforcement case-related activities performed in the office, field, and laboratory. NEIC MTS is also used to manage project files.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: Any person who is the subject of a criminal or civil investigation concerning violations of federal environmental statutes and regulations (or state, tribal or local environmental statutes and regulations, pursuant to a cooperative agreement with a state, tribal or local authority); any person who provides information and evidence that is used to substantiate criminal or civil environmental violations; any third parties identified by persons providing information or evidence that is used to substantiate criminal or civil environmental violations; and EPA or other federal, state or local government personnel, or government contractors that perform field and analytical work or otherwise assist in an investigation.

CATEGORIES OF RECORDS IN THE SYSTEM: A. Computer Indexes. NEIC MTS includes systems for internal tracking and management of NEIC environmental enforcement technical support projects, including: a description of the project; a schedule of project milestones; the current project status; a listing of personnel working on the project; and the environmental statutes at issue. These indexes include: enforcement data such as planned dates for search warrants or facility inspections; types of sampling or analyses to be conducted; and any other work done to support a project. The indexes also serve as the computerized management information system for NEIC and contain information on the activity and productivity of individual employees as well as the organization. NEIC MTS's indexes are organized according to project number and project name. NEIC assigns project numbers sequentially by project type (i.e., civil, criminal). NEIC assigns project names by either the name of an entity or an individual, the choice of which depends upon the nature of the violation(s) or type of NEIC support activity. NEIC MTS's indexes can include the following EPA employee/contractor information: first name, last name, local area network (LAN) identification

(ID), personal phone number(s), and personal email address(es). The indexes can include the following investigatory subject information: first name, last name, and location (city and state).

B. Project Files. Documentary information relating to a given enforcement matter, including: correspondence (case coordination reports, memos of conversation, and other records of communication relating to the matter); witness interviews (on-site statements of interviews generated either by an NEIC investigator or another agency or person); regulatory history (permits and reports generated as a result of normal program activity); technical support (project reports generated as a result of the investigation); inspection notes; financial information; sampling and laboratory notes; and other related investigative information. Project files can include first name and/or last name of the EPA employee/contractor, federal, state, local, and/or tribal investigator. Project files can include the following categories of information on the investigatory subject: first name, last name, home address, personal telephone number(s), and personal email address(es).

RECORD SOURCE CATEGORIES: EPA employees and officials; employees of federal contractors; employees of other federal, state, local, tribal, or foreign agencies; personnel of companies/corporations under investigation; databases maintained by EPA; databases maintained by other federal, state, local, tribal, or foreign agencies; databases maintained by companies/corporations under investigation; witnesses; informants; public source materials; and other persons who may have information relevant to OCEFT/NEIC investigations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING

CATEGORIES OF USERS AND PURPOSES OF SUCH USES: The routine uses below are both related to and compatible with the original purpose for which the information was collected. The following general routine uses apply to this system (73 FR 2245):

A. Disclosure for Law Enforcement Purposes. Information may be disclosed to the appropriate federal, state, local, tribal, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information is relevant to a

violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity.

C. Disclosure to Requesting Agency. Disclosure may be made to a federal, state, local, foreign, or tribal or other public authority of the fact that this system of records contains information relevant to the retention of an employee; the retention of a security clearance; the letting of a contract; or the issuance or retention of a license, grant, or other benefit. The other agency or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another federal agency for criminal, civil, administrative, personnel, or regulatory action.

D. Disclosure to Office of Management and Budget. Information may be disclosed to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

E. Disclosure to Congressional Offices. Information may be disclosed to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

F. Disclosure to Department of Justice. Information may be disclosed to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which the Agency is authorized to appear, when:

1. The Agency, or any component thereof,
2. Any employee of the Agency in his or her official capacity,
3. Any employee of the Agency in his or her individual capacity where the Department of Justice or the Agency have agreed to represent the employee; or
4. The United States, if the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such

records by the Department of Justice or the Agency is deemed by the Agency to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

G. Disclosure to the National Archives. Information may be disclosed to the National Archives and Records Administration in records management inspections.

H. Disclosure to Contractors, Grantees, and Others. Information may be disclosed to contractors, grantees, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, job, or other activity for the Agency and who have a need to have access to the information in the performance of their duties or activities for the Agency. When appropriate, recipients will be required to comply with the requirements of the Privacy Act of 1974 as provided in 5 U.S.C. 552a(m).

I. Disclosures for Administrative Claims, Complaints and Appeals. Information from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other person properly engaged in investigation or settlement of an administrative grievance, complaint, claim, or appeal filed by an employee, but only to the extent that the information is relevant and necessary to the proceeding. Agencies that may obtain information under this routine use include, but are not limited to, the Office of Personnel Management, Office of Special Counsel, Merit Systems Protection Board, Federal Labor Relations Authority, Equal Employment Opportunity Commission, and Office of Government Ethics.

J. Disclosure to the Office of Personnel Management. Information from this system of records may be disclosed to the Office of Personnel Management pursuant to that agency's responsibility for evaluation and oversight of federal personnel management.

K. Disclosure in Connection with Litigation. Information from this system of records may be disclosed in connection with litigation or settlement discussions regarding claims by or against the Agency, including public filing with a court, to the extent that disclosure of the information is

relevant and necessary to the litigation or discussions and except where court orders are otherwise required under section (b)(11) of the Privacy Act of 1974, 5 U.S.C. 552a(b)(11).

The two routine uses below (L and M) are required by OMB Memorandum M-17-12.

L. Disclosure to Persons or Entities in Response to an actual or Suspected Breach of Personally Identifiable Information. Information from this system of records may be disclosed to appropriate agencies, entities, and persons when (1) the Agency suspects or has confirmed that there has been a breach of the system of records, (2) the Agency has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Agency (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Agency's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

M. Disclosure to Assist Another Agency in its Efforts to Respond to a Breach. To another Federal agency or Federal entity, when the Agency determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: Hard copy records are stored in file folders labeled with the NEIC project number and project name. The project name can be an entity or an individual. Computer indexes and electronic files are stored on secure, password-protected network drives. They are labeled with the NEIC project number and project name.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Project files are assigned a project number and project name, and records are maintained in numerical order.

Records are primarily retrieved by project name; the project number is the secondary retrieval method. Electronic records also may be retrieved by using key words or phrases, which can include an entity's name, individual person's name, and/or location (city and state).

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Administrative data from the system are retained according to EPA Records Schedule 1006.

Project files are closed when discontinued, superseded, or canceled, or when no longer needed for current agency business, and destroyed 6 years after closure. Project files relating to investigations are retained according to EPA Records Schedule 1044, Compliance and Enforcement. Closed project files are retained no less than 2 years and no more than 5 years on site. Project files are destroyed by the Federal Records Center no less than 5 years and no more than 20 years after the closing date, depending on case status. Project files classified as permanent records are transferred from the Federal Records Center to the National Archives from 15-18 years after the closing date, depending on the media.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: Security controls used to protect personal sensitive data in NEIC MTS are commensurate with those required for an information system rated MODERATE for confidentiality, integrity, and availability, as prescribed in National Institute of Standards and Technology (NIST) Special Publication, 800-53, "Security and Privacy Controls for Information Systems and Organizations," Revision 5.

1. Administrative Safeguards: EPA personnel are required to complete annual agency Information Security and Privacy training. EPA personnel are instructed to lock their computers when they leave their desks.

2. Technical Safeguards: Computer records are maintained in a secure, password-protected computer system. NEIC MTS access is limited to authorized, authenticated users. Access is restricted to those individuals and managers with an official need for information on a project. Security measures control user access and privileges to the computer databases at the server, file system, and database level.

3. *Physical Safeguards*: Paper records are maintained in lockable offices, file cabinets or in a staffed and/or access-controlled central records repository. All records are maintained in secure, access-controlled areas or buildings.

RECORDS ACCESS PROCEDURES: Pursuant to 5 U.S.C. 552a(j)(2) and (k)(2), certain records maintained in NEIC MTS are exempt from specific access and accounting provisions of the Privacy Act. See 40 CFR 16.11 and 16.12. However, EPA may, in its discretion, grant individual requests for access if it determines that the exercise of these rights will not interfere with an interest that the exemption is intended to protect. Requests for access must be made in accordance with the procedures described in EPA's Privacy Act regulations at 40 CFR part 16.

CONTESTING RECORDS PROCEDURES: Pursuant to 5 U.S.C. 552a(j)(2) and (k)(2), certain records maintained in NEIC MTS are exempt from specific correction and amendment provisions of the Privacy Act. However, EPA may, in its discretion, grant individual requests for correction or amendment if it determines that the exercise of these rights will not interfere with an interest that the exemption is intended to protect. Requests for correction or amendment must identify the record to be changed and the corrective action sought, and must be made in accordance with the procedures described in EPA's Privacy Act regulations at 40 CFR part 16.

NOTIFICATION PROCEDURE: Individuals who wish to be informed whether a Privacy Act system of records maintained by EPA contains any record pertaining to them, should make a written request to the EPA Attn: Agency Privacy Officer, MC 2831T, 1200 Pennsylvania Ave., NW, Washington, D.C. 20460, or by email at privacy@epa.gov.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: For those records within the system collected and maintained pursuant to the Federal Rules of Civil Procedure (FRCP) and/or for the purpose of civil discovery, action or proceeding, 5 U.S.C. 552a(d)(5) will apply, stating that "nothing in this [Act] shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding." In addition, pursuant to 5 U.S.C. 552a(k)(2), this system is exempt from the following provisions of the Privacy Act, subject to the limitations set

forth in that subsection: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f)(2) through (5). Finally, pursuant to 5 U.S.C. 552a(j)(2), when records are contained in this system related to criminal enforcement, those records are exempt from the following provisions of the Privacy Act, subject to the limitations set forth in that subsection: 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5) and (e)(8); (f)(2) through (5); and (g). See 40 CFR 16.11 and 16.12.

HISTORY: 66 FR 49947 – October 1, 2001 - Creation of the OCEFT/NEIC Master Tracking System of Records (EPA-46)

78 FR 40737 - July 8, 2013 - Notification of Deletion of System of Records; Office of Criminal Enforcement, Forensics & Training, National Enforcement Investigations Center, Master Tracking System (EPA-46)

Vaughn Noga,

Senior Agency Official for Privacy.

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